

**IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF ALABAMA  
NORTHERN DIVISION**

<b>JOHNNIE MAE SAWYER, as daughter</b>	)	
<b>and Administrator of the Estate</b>	)	
<b>of Arthur Waters, Deceased,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>CIVIL ACTION NO. 2:12-0020-KD-M</b>
	)	
<b>SYLVIA COLLINS, BOBBY SANDERS,</b>	)	
<b>and JAMES HOOD,</b>	)	
	)	
<b>Defendants.</b>	)	

**ORDER**

After due and proper consideration of all pleadings in this file, and a *de novo* determination of those portions of the Recommendation to which objection is made, the Recommendation of the Magistrate Judge made under 28 U.S.C. § 636(b)(1)(B) is adopted, in part, as the opinion of this Court, as follows:

1. Claims pursuant to 42 U.S.C. § 1983: The Report and Recommendation is adopted and defendants' motion to dismiss plaintiff's claim pursuant to 42 U.S.C. § 1983 on the basis of qualified immunity is DENIED. (Doc. 61, p. 1-19)

2. State law claims: As to the state law claims against defendants Sylvia Collins and Bobby Sanders, the issue of whether they are entitled to state immunity under Alabama law will be certified to the Supreme Court of Alabama.<sup>1</sup>

DONE this 5th day of December, 2012.

s/ Kristi K. DuBose  
KRISTI K. DuBOSE  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> Pre-trial proceedings in this case will not be stayed pending resolution of this question by the Supreme Court of Alabama.